IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1116/1999

GURUDEEP SINGH
Vs.
THE PRESCRIBED AUTHORITY UNDER THE RODA ACT & ORS.

DATE: 29.11.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. S.R. Surana for the petitioner.
Mr. G.C. Garg for the respondents.

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This writ petition is directed against the impugned auction notice dated 19.02.99 by which the petitioner's property is to be auctioned.

The main challenge to this order by the petitioner is on the ground that since recovery proceedings are initiated under the Rajasthan Agricultural Credit Operations (Removal of Difficulties) Act, 1974 (for short 'the Act of 1974'), as per mandatory provision of Section 13 recovery of dues of a bank through a prescribed authority can only be initiated after giving opportunity of being heard to the guarantor.

On the other hand, learned counsel appearing for the respondents has raised an objection that this writ

petition is not maintainable as the petitioner has got alternative efficacious remedy, but he does not dispute the fact that as per the provisions of Section 13 of the Act of 1974, guarantor is to be given opportunity of being heard.

Upon perusal of the order dated 05.09.98 and the impugned notice, it appears that the guarantor has not been provided opportunity of being heard.

Therefore, in the interest of justice, I deem it proper to direct the respondents to provide an opportunity of being heard to the guarantor-petitioner and after providing the same, shall proceed further for recovery of the due amount. The SDO, Beawar shall issue notice to the petitioner and after giving opportunity of being heard to the petitioner, shall decide the matter expeditiously, but in any case, not beyond the period of six months from the date of receipt of certified copy of this order since the recovery proceedings are pending since 1997. Till the disposal of the matter, auction proceedings shall remain stayed and immediately after decision, the respondents are free to recover the amount after following the due process of law.

With these observations, the writ petition stands disposed of.

(K.S. RATHORE),J.

/KKC/